

MINUTES
ENFORCEMENT COMMITTEE MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS
1917 IH-35 SOUTH, BOARD ROOM, AUSTIN, TX
February 15, 2012 – 9:00 a.m.

CALL TO ORDER. Committee Chair Dr. Gary Raba, P.E., called the Enforcement Committee meeting to order at 9:07 am on February 15, 2012, at the Texas Board of Professional Engineers, 1917 South Interstate 35, Austin, TX 78741. **(All votes are unanimous, unless otherwise noted).**

1. Roll call and welcome visitors.

Gary Raba, D. Eng., P.E.	Chair
Edward Summers, Ph.D.	Member
Elvira Reyna	Member

A quorum was present. Kevin Heyburn, Assistant Attorney General, was present to provide legal counsel. Also present was Mr. Edmundo Gonzalez, Jr., P.E., Emeritus Board Member.

The following staff members were present:

Lance Kinney, P.E.	Executive Director
Priscilla Piphio, MPA	Deputy Executive Director
C.W. Clark, P.E.	Director of Compliance & Enforcement
Dewey Helmcamp, III JD	Staff Attorney
Clif Bond	Supervising Investigator
Dorothy Gonzales	Executive Assistant

Visitors. Al Kosik, P.E., Texas Department of Transportation; Peyton McKnight, American Council of Engineering Companies; Stephanie Stanford, Texas Society of Professional Engineers (TSPE); Terry Bilderbirk, TSPE.

2. Public comment. None.

DISCUSS AND POSSIBLY ACT ON THE FOLLOWING (AGENDA ITEMS 3-8):

3. Discuss and possibly approve the November 17, 2011, Enforcement Minutes.

It was MOVED/SECONDED (Summers/Reyna) to approve the November 17, 2011, Enforcement Minutes as submitted. A vote was taken and the MOTION PASSED.

4. Discuss and possibly approve to modify the August 25, 2010, Enforcement Minutes.

It was MOVED/SECONDED (Reyna/Summers) to approve the following amendment to the August 25, 2010 Enforcement Minutes. A vote was taken and the MOTION PASSED.

Amendment to minutes: The Committee unanimously agreed and directed staff to continue using the current sanctions and penalties worksheet procedure in place.

5. Director of Compliance & Enforcement Report.

- Discuss and possibly act on the following rule proposal:

- §139.35 (b) Sanctions and Penalties

Mr. Clark reported that the rule proposal to §139.35 (b) is to correct the double negative in the wording on page 5, Sanction Table, Ethics violation, third row. It was MOVED/SECONDED (Reyna/Summers) to recommend to the Board at its Regular Quarterly Board meeting on February 15, 2012, to publish the rule proposal for §139.35 (b) as submitted. A vote was taken and the MOTION PASSED.

- C & E Process Improvements

Mr. Clark summarized the exhibit included for the Committee members on improvements in processes in the Compliance & Enforcement Division, including online complaint forms, database improvements, and moving forward towards a paperless environment.

6. Discuss, consider, and possibly act on decision resulting from SOAH case and Final Order for the following cases:

- E-32736; Charles Beckham, II

Mr. Helmcamp reported that a final board order was before the Committee for recommendation to the full Board for approval. Mr. Beckham used the initials "P.E." on his business cards and in email correspondence and he is not a licensed professional engineer. Mr. Beckham did not appear at the scheduled SOAH hearing; and in accordance with SOAH rules, the Administrative Law Judge (ALJ) dismissed the case from the SOAH docket and returned it to the Board with authorization to issue a Final Board Order. If Mr. Beckham does not pay the amount on the final order, his case will be turned over to the Office of the Attorney General for collection.

It was MOVED/SECONDED (Summers/Reyna) to recommend to the full Board at its Regular Quarterly Board meeting on February 15, 2012, to approve and send the Final Order to Mr. Charles Beckham II. A vote was taken and the MOTION PASSED.

Staff Attorney Reports.

- SOAH Cases.

Mr. Helmcamp reviewed the exhibit with the Committee members. He highlighted that since the beginning of this fiscal year, a total of 12 cases have been referred to him. Out of the 12 cases, 10 have been filed with SOAH; 1 of these cases was resolved by the licensee signing the Agreed Board Order; 4 have been resolved and 5 cases are pending. Of the 5 pending, 3 are going to mediation, 1 case will go to hearing, and 1 case is in negotiation with the PE and his attorney. The remaining 2 of the 12 referred, complaints have been drafted and are circulating internally for review and approval. The Board is moving expeditiously and there are no other cases pending. Mr. Kinney commended Mr. Helmcamp for all his efforts.

- Suits Against the Board.

There is a new suit filed by an engineer. The Board is made a party to this suit as a nominal defendant. The suit is regarding the regulation of a windstorm inspector. The Board is being represented by Mr. Kevin Heyburn.

- Status of Court Cases (Injunctions).

Mr. Helmcamp reported that Mr. Heyburn is representing the Board in the case against Oxford.

7. Issues for consideration and schedule next meeting.

ADJOURN.

Dr. Raba adjourned the meeting at 9:32 am.

Date Committee approved minutes as submitted:
Date Board accepted minutes:

May 24, 2012
May 24, 2012